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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/760,975	01/16/2001	Roy Frank Brabson	5577-217	4362
20792	7590	04/02/2004	EXAMINER	
MYERS BIGEL SIBLEY & SAJOVEC			HU, JINSONG	
PO BOX 37428			ART UNIT	
RALEIGH, NC 27627			2154	5
DATE MAILED: 04/02/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/760,975	BRABSON ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Jinsong Hu	2154	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 12 March 2001.

2a) This action is **FINAL**.                                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-35 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-35 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 4.

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_.

**DETAILED ACTION**

1. Claims 1-35 are presented for examination.
2. The cross references related to the application cited in the specification must be updated [i.e., update the relevant status with PTO serial number or patent number where appropriate, on page 1, lines 1-8]. The entire specification should be so revised.
3. Claims 27-31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As per claim 27, line 4, "sendmsg()" [what is the abbreviation of this].

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-35 are rejected under 35 U.S.C. 102(e) as being anticipated by Arunachalam et al. (US 6,631,122).
6. As per claims 1-2 and 9-13, Arunachalam teaches the invention as claimed including a method for providing transactional quality of service [col. 1, lines 7-13], the method comprising the steps of:
  - providing transaction service level information for a data transmission transaction to a communication process executing on a data processing system from an application requesting the data transmission transaction, wherein the transaction service level information is provided separate from data for the data transmission transaction [col. 4, lines 60-63; col. 6, lines 1-3 & 13-14; col. 11, lines 8-11]; and
  - determining a quality of service level associated with the data transmission transaction based on the transaction service level information received by the communication process from the application [col. 6, lines 1-3; col. 7, lines 60-63].
7. As per claims 3-5, Arunachalam teaches the step of incorporating into at least one header of at least one of the data transmissions an indicator of quality of service for the at least one of the data transmissions [col. 6, lines 13-14; col. 7, lines 60-63].
8. As per claims 6-8, Arunachalam teaches the data transmissions associated with the data transmission transaction are data transmissions transmitting data provided with a request from the application for the data transmission transaction [col. 4, lines 1-15].

9. As per claims 14-16, Arunachalam teaches the steps of determining if a response associated with the data transmission transaction is received by the communication process and allocating resources of a data processing system associated with the communication process to process the received response utilizing a quality of service level based on the determined quality of service of the data transmission transaction established for the data transmissions associated with the received response [col. 11, lines 39-54].

10. As per claim 17, Arunachalam teaches the step of allocating resources of the data processing system is different from the determined quality of service [col. 11, lines 23-30].

11. As per claims 18-20, Arunachalam teaches the step of determining a quality of service level comprises the steps of determining if the transaction service level includes an identification of a predefined quality of service level and utilizing the predefined quality of service level as the determined quality of service level if the transaction service level includes an identification of the predefined quality of service level [col. 11, lines 8-11].

12. As per claims 21 and 22, Arunachalam teaches the communication process comprises a TCP/IP kernel and a communication protocol stack [Fig. 10 B; col. 12, line 62 – col. 13, line 10].

13. As per claims 23-26, Arunachalam teaches the invention as claimed including a method for establishing a quality of service level for the transmission of data, comprising:

providing an application program interface to a communications process which both receives data to be transmitted by the communication process and receives quality of service information associated with the data to be transmitted so as to establish the quality of service level for the transmission of the received data without reference to the contents of the received data to be transmitted [col. 4, lines 60-63; col. 6, lines 1-3 & 13-14; col. 7, lines 60-63; col. 11, lines 8-11].

14. As per claims 27-31, since they are system claims of claims 1, 14, 19 and 21-22, they are rejected for the same basis as claims 1, 14, 19 and 21-22 above.

15. As per claims 32 and 34, since they are apparatus and computer program claims of claim 1, they are rejected for the same basis as claim 1 above.

16. As per claims 33 and 35, since they are system and computer program claims of claim 23, they are rejected for the same basis as claim 23 above.

### ***Conclusion***

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Barbas et al. (US 6,169,748) discloses a quality of service system;  
Aybay (US 6,185,221) discloses a quality of service system;  
Yeh (US 6,690,929) discloses a dynamic quality of service system; and  
Purnadi et al. (US 6,556,824) discloses a service system.

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jinsong Hu whose telephone number is (703) 306 – 5932.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John A. Follansbee, can be reached on (703) 305-8498. The fax number for Group 2100 is (703) 872-9306.

Any inquiry of a general nature or relating to the status of the application should be directed to the Group receptionist at (703) 305-3900.

Jinsong Hu

March 30, 2004



ZARNI MAUNG  
PRIMARY EXAMINER